

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

1331 PENNSYLVANIA AVE., N.W., SUITE 520N  
WASHINGTON, DC 20004-1710

**July 29, 2022**

SECRETARY OF LABOR, : Docket No. YORK 2022-0003  
MINE SAFETY AND HEALTH : A.C. No. 30-00026-541944  
ADMINISTRATION (MSHA) :

v. :

COUNTY LINE STONE CO., INC. :

SECRETARY OF LABOR, : Docket No. PENN 2021-0108  
MINE SAFETY AND HEALTH : A.C. No. 36-07416-539405  
ADMINISTRATION (MSHA) :

v. :

CONSOL PENNSYLVANIA COAL :  
COMPANY LLC :

SECRETARY OF LABOR, : Docket No. WEVA 2022-0260  
MINE SAFETY AND HEALTH : A.C. No. 46-09495-549775  
ADMINISTRATION (MSHA) :

v. :

RAMACO RESOURCES, LLC :

BEFORE: Traynor, Chair; Althen and Rajkovich, Commissioners

**ORDER**

BY THE COMMISSION:

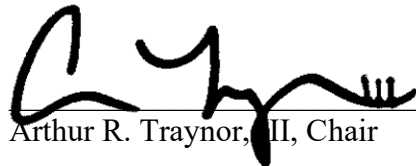
These captioned cases arise under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2018) (“Mine Act”), and are currently before Administrative Law Judge Michael G. Young. The Secretary filed a Petition for Interlocutory Review with the Commission pursuant to Commission Procedural Rule 76, 29 C.F.R. § 2700.76. The Secretary’s petition seeks review of the Judge’s apparent intention to not grant the Secretary’s motions to approve settlement. Upon consideration of this petition and the case records, we conclude that because the Judge has yet to rule upon the Secretary’s motions, the Secretary’s petition is premature. In

the absence of an interlocutory ruling by the Judge, we deny the Secretary’s Petition for Interlocutory Review.

More specifically, before the Judge, the Secretary filed motions to approve settlement which contained a proposal to vacate one or more citations. In response, the Judge asked if the Secretary could certify that the decision to vacate any citation was independent from, and not contingent upon, the compromise or settlement of other citations in that case. Instead of providing the Judge with his requested assurance, the Secretary filed motions for certification of interlocutory review with the Judge, requesting that the Judge certify to the Commission the question of the Secretary’s discretion to vacate a contested citation as part of a settlement. On June 28, 2022, the Judge issued three separate orders, each denying the Secretary of Labor’s respective motion for certification of an interlocutory ruling.

As the Secretary’s petition to the Commission recognizes, the same controlling question of law is currently on review before the Commission in *Crimson Oak Grove Resources*, SE 2021-0112 et al. Specifically, in *Crimson Oak*, the Commission granted interlocutory review of “of the Judge’s orders denying the motions and the issue of whether section 110(k) of the Mine Act authorizes review of the Secretary’s decision to vacate a citation in the context of a settlement, when the vacatur is contingent upon the resolution of other citations.” *Crimson Oak*, Order at 2 (March 2, 2022) (emphasis added). Notably, in these captioned cases which are the subject of the Secretary’s petition before us, the Judge has yet to issue an order either granting or denying the Secretary’s motions to approve settlement.

For these reasons, the Secretary’s petition is denied without prejudice.




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Arthur R. Traynor, II, Chair



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William I. Althen, Commissioner



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Marco M. Rajkovich, Jr., Commissioner

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